

21.29(2) Requirements.

a. Mandatory provisions. A domestic relations order is a qualified domestic relations order if such order:

(1) Clearly specifies the member's name and last-known mailing address and the names and last-known mailing addresses of alternate payees, and requires that the social security numbers of the member and alternate payees be provided to IPERS in a cover letter or a court's Confidential Information Form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member's benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member's accrued benefit;

(3) Clearly specifies the period to which such order applies, including whether benefits cease upon the death or remarriage of the alternate payee;

(4) Clearly specifies that the order applies to IPERS;

(5) Clearly specifies that the order is for purposes of making a property division; and

(6) Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge's signature, or is conformed in accordance with local court rules.

b. Prohibited provisions. A domestic relations order is not a qualified domestic relations order if such order:

(1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;

(2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;

(3) Requires the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined by IPERS to be a qualified domestic relations order;

(4) Requires any action by IPERS that is contrary to its governing statutes or plan provisions;

(5) Awards any future benefit increases that are provided by the legislature, except as provided in 21.29(2) "c"(2); or

(6) Requires the payment of benefits to an alternate payee prior to a trigger event.

c. Permitted provisions. A qualified domestic relations order may also:

(1) If a trigger event has not occurred as of the date the order is received by IPERS, name an alternate payee as a designated beneficiary or contingent annuitant, require the payment of benefits under a particular benefit option, or both;

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, or cost-of-living increase or any other post-retirement benefit increase to the member (all known as dividend payments), as follows:

1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining said dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and

2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent; and

(4) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if IPERS does not receive confirmation of the successor's name, Social Security number, and last-known mailing address in a cover letter or in a copy of the court's confidential information form.

21.29(3) Administrative provisions.

a. Payment to an alternate payee shall be made in a like manner and at the same time that payment is made to the member. Payment to the alternate payee shall be in a lump sum if benefits are paid in a lump sum distribution or as monthly payments if a retirement option is in effect. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

b. If a domestic relations order does not so provide, the alternate payee shall not be entitled to any portion of the death benefit payable with respect to a member, but the failure to award an alternate payee a share of the member's death benefits in a qualified domestic relations order shall not negate a proper beneficiary designation on file with IPERS.

c. If an alternate payee has been awarded a share of the member's benefits and dies before the member, the entire account value shall be restored to the member unless otherwise specified in the order and in the manner required under this rule.

d. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a qualified domestic relations order.

e. The chief benefits officer, or a designee thereof, shall have exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A final determination by the chief benefits officer, or a designee thereof, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

f. A person who attempts to make IPERS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

g. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. If the member is not receiving a retirement allowance at the time a domestic relations order is received by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS.

h. IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

i. Alternate payees must notify IPERS of any change in mailing address. IPERS shall contact the alternate payee in writing at the last-known mailing address on file with IPERS, notifying the alternate payee that an application for a distribution has been received with respect to the member and providing the alternate payee with an application to be completed and returned by the alternate payee. The written notice shall provide that if the alternate payee does not return said application to IPERS within 60 days after such written materials are mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies) until a valid application is received, and IPERS shall have no liability to the alternate payee with respect to such amounts. IPERS has no duty or responsibility to search for alternate payees. If distributions have already begun at the time that an order determined by IPERS to be a qualified domestic relations order, the qualified domestic relations order shall be deemed to be the alternate payee's application to begin receiving his or her payments under the QDRO.

j. If an alternate payee's application is received less than two weeks before the member's first or next monthly payment is to be made, payments to the alternate payee shall begin the next following month.

k. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover (if eligible) elections must be received not less than two weeks in advance of the alternate payee's first payment, or IPERS will use the applicable default elections.

l. If an order that is determined to be a qualified domestic relations order divides a member's account using a service factor formula, IPERS shall limit the number of quarters used in the denominator of the service fraction to be the number of quarters actually used in the calculation of IPERS benefits.

m. The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. IPERS shall not review a proposed order that has not been approved as to form by both parties or their counsel. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the qualified status of a proposed order is resolved.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.39.

581—21.30(97B) Favorable experience dividend under Iowa Code section 97B.49F(2).

21.30(1) *Allocation of favorable experience.* The system shall annually allocate the system's favorable actuarial experience, if any, between the reserve account created under Iowa Code section 97B.49F(2) and the remainder of the retirement fund according to the following schedule.

<u>Years to Amortize Unfunded Liability</u>	<u>Percentage to FED Reserve</u>
Greater than 0 but less than or equal to 3	50%
Greater than 3 but less than or equal to 6	35%
Greater than 6 but less than or equal to 9	25%
Greater than 9 but less than or equal to 12	15%
Greater than 12 but less than or equal to 15	5%
Greater than 15	0%

The portion of the favorable actuarial experience that is not allocated to the FED reserve as provided above will be retained and used by the system to pay down its unfunded actuarial accrued liability, except as otherwise required by Iowa Code section 97B.49F(2) "c."

21.30(2) Determination of applicable percentage. The system shall have sole discretion to determine the applicable percentages that will be used in calculating favorable experience dividends payable under this rule, if any, subject to the actuary's certification that the resulting favorable experience dividends meet the requirements of Iowa Code section 97B.49F(2) and this rule.

a. The system's annual applicable percentage target for calculating dividends under Iowa Code section 97B.49F(2) shall be equal to the applicable percentage used in calculating dividends payable to retirees under Iowa Code section 97B.49F(1). Notwithstanding the foregoing, the system may set a greater or lesser applicable percentage for calculating dividends under this rule depending on the funding adequacy of the reserve account. In no event shall the applicable percentage exceed 3 percent.

b. In determining the annual applicable percentage, the system shall consider, but not be limited to, the value of the reserve account, distributions made from the reserve account in previous years, and the likelihood of future credits to and distributions from the reserve account. The system shall make its annual applicable percentage decisions using at least a rolling five-year period.

c. If for any year the system cannot afford an applicable percentage equal to that payable to retirees under Iowa Code section 97B.49F(1), the system may use applicable percentages in succeeding years that are higher than those used in calculating dividends for retirees under Iowa Code section 97B.49F(1) (but not in excess of 3 percent).

d. An applicable percentage in excess of the applicable percentage declared under Iowa Code section 97B.49F(1) made for catch-up purposes shall not reduce the funding of the reserve account below the amount the system's actuary determines is necessary to pay the maximum favorable experience dividend for each of the next five years, based on reasonable actuarial assumptions.

21.30(3) Calculation of FED for individual members and beneficiaries. A member must be retired for one full year to qualify for a favorable experience dividend. In determining whether a member has been retired one full year, the system shall count the member's first month of entitlement as the first month of the one-year period. The month in which the favorable experience dividend is payable shall be included in determining whether a member meets the eligibility requirements.

An eligible member's favorable experience dividend shall be calculated by multiplying the retirement allowance payable to the retiree, beneficiary, or contingent annuitant for the previous December, or such other month as determined by the system, by 12, and then multiplying that amount by the number of complete years the member has been retired or would have been retired if living on the date the dividend is payable, and by the applicable percentage set by the system. The number of complete years the member has been retired shall be determined by rounding down to the nearest whole year.

For otherwise eligible retired reemployed members who chose to suspend their monthly allowance under paragraph 21.19(2)"c," the suspension shall have no effect on the calculation of FED.

21.30(4) FED for eligible members and beneficiaries who die before the January distribution date. If a member or beneficiary receiving monthly payments would have been eligible for a FED distribution in the following January but dies prior to the January distribution date, IPERS will pay a FED to the member's or beneficiary's account for the calendar year in which the death occurred. The FED shall be calculated using the monthly payments received in the calendar year the death occurred. A lump sum death benefit shall not constitute a monthly payment for purposes of determining FED eligibility or in making FED calculations.

The FED percentage applied to the monthly payments received in the calendar year of death shall be the most recently declared FED percentage in effect at the time of the FED payment to the member or beneficiary. This subrule shall not be construed to permit a FED distribution to a member where the total monthly benefits received by the member, counting the month of death, is less than 12, even if a period of 12 months has elapsed between the first payment of monthly benefits to the member and the January distribution date.

Notwithstanding the foregoing, if IPERS determines in January of a given year that, based on reasonable actuarial assumptions, there is a reasonable likelihood that a FED will not be declared for the next following January, IPERS may defer paying FED distributions under this subrule until the determination is made. If IPERS subsequently determines that no FED will be declared for a given year, no FED will be payable to persons whose death occurs during the applicable calendar year.

Effective July 1, 2000, a retiree or beneficiary eligible for a FED payment must, in addition to all other applicable requirements, be living on January 1 in order to receive a FED payment otherwise payable in that January.

21.30(5) No transfer of favorable experience to the FED reserve fund shall exceed the amount that would extend IPERS' unfunded liability amortization period to more than the applicable limit then in effect under the funding policy adopted by IPERS.

This rule is intended to implement Iowa Code section 97B.49F(2).

581—21.31(97B) Disability claim process under Iowa Code section 97B.50A. Except as otherwise indicated, this rule shall apply only to disability claims initiated under Iowa Code section 97B.50A. Except as otherwise indicated, disability claims under Iowa Code section 97B.50(2) shall be administered under rule 581—21.22(97B).

21.31(1) Initiation of disability claim. The disability claim process shall originate as an application to the system by the member. The application shall be forwarded to the system's designated retirement benefits officer. An application shall be sent upon request to members who qualify pursuant to Iowa Code section 97B.50A(13). The application consists of the following sections which must be completed and returned to the system's designated retirement benefits officer:

1. General applicant information.
2. Applicant's statement.
3. Employer's statement.
4. Member's assigned duties.
5. Disability/injury reports.
6. Medical information release.

21.31(2) Preliminary processing. Completed forms shall be returned to the disability retirement benefits officer. If the forms are not complete, they will be returned for completion. The application package shall contain copies of all relevant medical records and the names, addresses, and telephone numbers of all relevant physicians. If medical records are not included, the designated retirement benefits officer shall contact the listed physicians for copies of the files on the individual and shall request that any applicable files be sent to the medical board. In addition, IPERS may request workers' compensation records, social security records and such other official records as are deemed necessary. The application, including copies of the medical information, shall be forwarded to the medical board for review. All medical records that will be part of a member's permanent file shall be kept in locked locations separate from the member's other retirement records.

21.31(3) Scheduling of appointments. Upon receipt and forwarding of the application and sufficient medical records to the medical board, the disability retirement benefits officer shall establish an appointment for the applicant to be seen by the medical board in Iowa City. The member shall be notified by telephone and in writing of the appointment, and given general instructions about where to go for the examinations. The appointment for the examinations shall be no later than 60 days after the completed application, including sufficient medical records, is provided. All examinations must be scheduled and completed on the same date. The member shall also be notified about the procedures to follow for reimbursement of travel expenses and lodging. Fees for physical examinations and medical records costs shall be paid directly by IPERS pursuant to its contractual arrangements with the medical providers required to implement Iowa Code section 97B.50A.

21.31(4) Medical board examinations. The medical board, consisting of three physicians from the University of Iowa occupational medicine clinic and other systems as required, shall examine the member and perform the relevant tests and examinations pertaining to the difficulty the member is having.

The medical board shall submit a letter of recommendation to the system, based on its findings and the job duties supplied in the member's application, whether or not the member is mentally or physically incapacitated from the further performance of the member's duties and whether or not the incapacity is likely to be permanent. "Permanent" means that the mental or physical incapacity is reasonably expected to last more than one year. The medical board's letter of recommendation shall include a recommended schedule for reexaminations to determine the continued existence of the disability in question.

IPERS shall not be liable for any diagnostic testing procedures performed in accordance with Iowa Code section 97B.50A and this rule which are alleged to have resulted in injury to the members being examined.

The medical board shall furnish its determination, test results, and supporting notes to the system no later than ten working days after the date of the examination. The medical board may use electronic signatures in fulfilling its reporting obligations under this rule.

The medical board shall not be required to have regular meetings, but shall be required to meet with IPERS' representatives at reasonable intervals to discuss the implementation of the program and performance review.

21.31(5) Member and employer comments. Upon receipt by the system, the medical board's determination regarding the existence or nonexistence of a permanent disability shall be distributed to the member and to the employer for review. The member and the employer may forward to the system written statements pertaining to the medical board's findings within ten days of transmittal. If relevant medical information not considered in materials previously forwarded to the medical board is contained within such written statements, the system shall submit such information to the medical board for review and comment.

21.31(6) Fast-track review. IPERS' disability retirement benefits officer may refer any case to IPERS' chief benefits officer for fast-track review. The chief benefits officer may, based upon a review of the member's application and medical records, determine that the medical board be permitted to make its recommendations based solely upon a review of the application and medical records, without requiring the member to submit to additional medical examinations by, or coordinated through, the medical board.

21.31(7) Initial administrative determination. The medical board's letter of recommendation, test results, and supporting notes, and the member's file shall be forwarded to IPERS. Except as otherwise requested by IPERS, the medical board shall forward hospital discharge summary reports rather than the entire set of hospital records. The complete file shall be reviewed by the system's disability retirement benefits officer, who shall, in consultation with the system's legal counsel, make the initial disability determination. Written notification of the initial disability determination shall be sent to the member and the member's employer within 14 days after a complete file has been returned to IPERS for the initial disability determination.

21.31(8) General benefits provisions. If an initial disability determination is favorable, benefits shall begin as of the date of the initial disability determination or, if earlier, the member's last day on the payroll, but no more than six months of retroactive benefits are payable, subject to July 1, 2000, enactment date and the terms and conditions of Iowa Code section 97B.50A(13). "Last day on the payroll" shall include any form of authorized leave time, whether paid or unpaid. If a member receives short-term disability benefits from the employer while awaiting a disability determination hereunder, disability benefits will accrue from the date the member's short-term disability payments are discontinued. If an initial favorable determination is appealed, the member shall continue to receive payments pending the outcome of the appeal.

Any member who is awarded disability benefits under Iowa Code section 97B.50A and this rule shall be eligible to elect any of the benefit options available under Iowa Code section 97B.51. All such options shall be the actuarial equivalent of the lifetime monthly benefit provided in Iowa Code section 97B.50A(2) and (3).

The disability benefits established under this subrule shall be eligible for the favorable experience dividends payable under Iowa Code section 97B.49F(2).

If the award of disability benefits is overturned upon appeal, the member may be required to repay the amount already received or, upon retirement, have payments suspended or reduced until the appropriate amount is recovered.

IPERS shall, at the member's written request, precertify a member's medical eligibility through the procedures set forth in subrules 21.31(3) and 21.31(4), provided that IPERS shall have full discretion to request additional medical information and to redetermine the member's medical eligibility if the member chooses not to apply for disability benefits at the time of the precertification. IPERS shall not pay for the costs of more than one such precertification per 12-month period.

21.31(9) *In-service disability determinations.* Subject to the presumptions contained in Iowa Code section 97B.50A in determining whether a member's mental or physical incapacity arises in the actual performance of duty, "duty" shall mean:

a. For special service members other than firefighters, any action that the member, in the member's capacity as a law enforcement officer:

(1) Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) Performs in the course of controlling or reducing crime or enforcing the criminal law; or

b. For firefighters, any action that the member, in the member's capacity as a firefighter:

(1) Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) Performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

21.31(10) *Appeal rights.* The member or the employer, or both, may appeal IPERS' initial disability determination. Within 30 days after the notification of IPERS' initial disability determination was mailed, the member shall submit to IPERS' chief benefits officer a notice of appeal in writing setting forth:

a. The name, address, and social security number of the member or employee number of the employer;

b. A reference to the decision from which the appeal is being made;

c. The fact that an appeal from the decision is being made;

d. The grounds upon which the appeal is based;

e. Additional medical or other evidence to support the appeal; and

f. The request that a different decision be made by IPERS.

The system shall conduct an internal review of the initial disability determination, and the chief benefits officer shall notify the party who filed the appeal in writing of IPERS' final disability determination with respect to the appeal. The chief benefits officer may appoint a review committee to make nonbinding recommendations on such appeals. The disability retirement benefits officer, if named to the review committee, shall not vote on any such recommendations, nor shall any members of IPERS' legal staff participate in any capacity other than a nonvoting capacity. Further appeals shall follow the procedures set forth in rule 581—21.9(97B).

21.31(11) *Notice of abuse of disability benefits.* The system has the obligation and full authority to investigate allegations of abuse of disability benefits. The scope of the investigation to be conducted shall be determined by the system, and may include the ordering of a sub rosa investigation of a disability recipient to verify the facts relating to an alleged abuse. A sub rosa investigation shall only be considered upon receipt and evaluation of an acceptable notice of abuse. The notification must be in writing and include:

a. The informant's name, address, telephone number, and relationship to the disability recipient; and

b. A statement pertaining to the circumstances that prompted the notification, such as activities which the informant believes are inconsistent with the alleged disability.

c. Anonymous calls shall not constitute acceptable notification.

IPERS may employ such investigators and other personnel as may be deemed necessary, in IPERS' sole discretion, to carry out this function. IPERS may also, in its sole discretion, decline to carry out such investigations if more than five years have elapsed since the date of the disability determination.

21.31(12) *Qualification for social security or railroad retirement disability benefits.* Upon qualifying for social security or railroad retirement disability benefits, a member may contact the system to have the member's disability benefits calculated under Iowa Code section 97B.50(2). The election to stop having benefits calculated under Iowa Code section 97B.50A and to start having benefits calculated under Iowa Code section 97B.50(2) must be in writing on forms developed or approved by the system, is irrevocable, and must be made within 60 days after the member receives written notification of eligibility for disability benefits from social security or railroad retirement and has commenced receiving such payments.

21.31(13) *Reemployment/income monitoring.* A member who retires under Iowa Code section 97B.50A and this rule shall be required to supply a copy of a complete set of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if such records are not timely provided.

Only wages and self-employment income shall be counted in determining a member's reemployment comparison amount, as adjusted for health care coverage for the member and the member's dependents.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS' actuary.

This rule is intended to implement Iowa Code section 97B.50A.

581—21.32(97B) *Qualified benefits arrangement.* Rescinded IAB 1/7/04, effective 2/11/04.

581—21.33(17A,97B) Benefits advisory committee. Rescinded IAB 1/7/04, effective 2/11/04.

581—21.34(97B) Replacement warrants. Effective July 1, 2002, for a member or beneficiary who, due to the member's or beneficiary's own actions or inactions, has benefits warrants replaced twice in a six-month period, except when the need for a replacement warrant is caused by IPERS' failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said cases may be required to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

This rule is intended to implement Iowa Code chapter 97B.

581—21.35(97B) Procedures for merger of qualified pension plans with IPERS. Effective January 1, 2003, IPERS will begin accepting qualified pension plans for merger into the IPERS pension plan. This merger process shall provide for the transfer of all active and inactive members, retirees, and beneficiaries of retirees of the merging plan into IPERS, except as otherwise agreed by IPERS and the merging plan.

21.35(1) The merging plan shall transfer assets to IPERS in an amount equal to the actuarial accrued liability created for IPERS as the result of the transfer of pension obligations owed to active, inactive and retired members of the merging plan. Said actuarial accrued liability shall be determined using the merging plan's membership data, the IPERS benefit structure, and the current IPERS actuarial valuation assumptions as of the date of the transfer.

21.35(2) All years of service under the merging plan shall be recognized by IPERS for purposes of determining eligibility, vested status, and calculating IPERS benefits.

21.35(3) All wage records for current active members shall be summarized on the quarterly basis used by IPERS to determine the member's IPERS benefits. IPERS will not independently verify wage records, but will monitor those records to ensure that IRC Section 401(a)(17) limits are not exceeded.

21.35(4) The merging plan's actuary may determine that the accrued benefit of an active or inactive member of the merging plan exceeds the member's accrued IPERS benefits based on the merging plan's membership data and the IPERS benefit structure. The compensation of such individuals for any difference between the monthly benefit they accrued in the merging plan and the benefit they will have under IPERS shall be at the merging plan's sole discretion, and IPERS shall have no liability.

21.35(5) The same methods of conversion and cash out will be used for terminated vested members with a current plan account in the merging plan and for members, if any, who previously elected to freeze their accounts in the former plan to begin participation in IPERS.

21.35(6) The merging plan's retirees shall receive annuity payments from IPERS in the same forms and amounts as provided in the merging plan, provided those forms of payment are available under IPERS. If any retiree from the merging plan is also receiving a benefit from IPERS and the forms of benefits under the two plans differ, the retiree must agree to have the benefit payable from the merging plan converted and paid in the same form as the benefit under IPERS. Dividends for retirees transferred to IPERS shall be determined based on the first month of entitlement under the merging plan.

21.35(7) The monthly benefit payable to transferred members (excluding retirees) by IPERS may be greater or less than the monthly benefit they would have received under the merging plan. IPERS shall not be responsible for any difference in the two benefit amounts. It shall be the sole responsibility of the merging plan to ensure the protection of the accrued benefits of the merging plan's members and beneficiaries.

21.35(8) IPERS may agree to accept in-kind transfers of assets in satisfaction of the liabilities created by the merger, but may, in IPERS' sole discretion, decline all in-kind asset transfers and demand cash to fund the merger.

21.35(9) Mergers shall meet the following criteria:

a. There shall be no actuarial gain or loss to IPERS (defined as a change in the unfunded accrued actuarial liability) as a result of a merger with another pension plan.

b. The merging plan shall defend and hold IPERS harmless from any claims by transferred members with respect to employee contribution accounts, cut-back claims, tax issues, and any other cause of action arising hereunder that does not result from IPERS negligence or misconduct. This indemnification shall also extend to any contractual claims by the merging plan's vendors, pending or threatened lawsuits or regulatory actions against the merging plan, and appeals by members, retirees and beneficiaries of the merging plan.

c. Prior to the merger date, the merging plan authority and IPERS shall formally agree on all material terms and conditions of the merger in writing.

d. The merging plan authority shall adopt by resolution a proposal to merge the pension plan with and into the IPERS pension plan, with IPERS as the surviving plan, which shall incorporate by reference the details of the merger expressed in the merger agreement between the merging plan and IPERS. The merging plan authority shall secure all other approvals necessary to the merger, and shall certify to IPERS that all necessary authorizations have been received.

e. All assets required to fund the transfer of liabilities created under the merger shall be transferred to IPERS within 120 days after the proposed effective date, plus an additional amount representing a 7.5 percent interest rate (or the current rate assumed by IPERS' actuary in valuing assets and liabilities) commencing on the proposed effective date.

f. After the merger, the merging plan authority, as a covered employer, shall determine employee classifications and deduct and forward member and employer contributions in the same amount as required for all IPERS covered employment.

g. The merging plan authority shall transfer to IPERS in a mutually agreed upon method all employment records for active, inactive, and retired members and beneficiaries, including all tax reporting records. In addition to employment and tax reporting records, transferred electronic files shall include the same enrollment information as required under 21.6(11). Similar demographic information shall be provided to IPERS for spouses and beneficiaries.

h. The merging plan shall, prior to merger, in its sole discretion, make such amendments to its plan documents that it deems to be necessary or appropriate to accomplish the merger, provided that no such amendments shall vary the terms of the agreement to merge without the express written consent of IPERS.

i. IPERS shall, prior to merger, in its sole discretion, make such amendments to its plan documents that it deems to be necessary or appropriate to accomplish the merger, provided that no such amendments shall vary the terms of the agreement to merge without the express written consent of the merging plan.

j. The transferred records of the merging plan shall be treated as confidential records by IPERS as described in rule 581—21.23(97B).

k. The merging plan authority and its legal and actuarial advisors shall determine the excess accruals, if any, owed to any member of the merging plan transferred to IPERS; shall provide such members with the appropriate election forms and related information; and shall take all steps necessary to complete the payment of compensation to such individuals in satisfaction of the obligation to protect accrued benefits under the merging plan as described above.

l. Excluding matters relating to the distribution of excess accruals, if any, the merging plan authority, its legal counsel, and IPERS and its legal counsel shall jointly develop all required communications regarding the plan merger. IPERS shall have sole responsibility for providing benefits estimates to the merging plan members, in anticipation of the merger. Following the effective date of the merger, all member services shall be handled by IPERS.

m. Following the merger, transferred active, inactive, and retired members and beneficiaries shall be entitled to benefits, including monthly allowances, refunds, actuarial equivalent (AE), death benefits and dividends as other IPERS members having the same demographic, wage and service records.

n. The members of the merging plan who currently have binding assignments against their benefits shall continue to have those assignments administered by IPERS as described in 21.26(97B) and 21.29(97B) or as otherwise required by law.

o. The members of the merging plan currently receiving disability retirement benefits must agree to have their disability retirement benefits administered by IPERS as described under 21.22(97B) or 21.31(97B), as applicable, or those members shall not be transferred.

p. The merging plan and IPERS shall jointly agree whether the merger will be submitted to the IRS for approval.

This rule is intended to implement Iowa Code section 97B.42C.

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CHAPTER 22

FEDERAL SOCIAL SECURITY

[Prior to 5/6/87, Employment Security[370], Ch 9]

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CHAPTER 23

EMPLOYEE ORGANIZATION DUES

[Prior to 8/12/87, Comptroller, State[270], Ch 2]

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